



**National  
Foreign  
Assessment  
Center**

**Confidential**

A handwritten signature in black ink, consisting of a stylized 'M' followed by a long horizontal stroke.

# **Iran: The New Constitution**

**An Intelligence Memorandum**

**Confidential**

*PA 79-10571  
December 1979*

*Copy 001*

**Warning Notice**

Intelligence Sources  
and Methods Involved  
(WNINTEL)

**National Security  
Information**

Unauthorized Disclosure  
Subject to Criminal Sanctions

**Dissemination Control  
Abbreviations**

NOFORN (NF)	Not Releasable to Foreign Nationals
NOCONTRACT (NC)	Not Releasable to Contractors or Contractor/Consultants
PROPIN (PP)	Caution—Proprietary Information Involved
NFIBONLY (NO)	NFIB Departments Only
ORCON (OC)	Dissemination and Extraction of Information Controlled by Originator
REL...	This Information Has Been Authorized for Release to...
FGI	Foreign Government Information

A microfiche copy of this document is available from OCR/DSB [redacted], printed copies from PPG/RDB [redacted]. Regular receipt of NFAC reports in either microfiche or printed form can also be arranged through PPG/RDB.

Derivative classification by 37277  
Review 10 years from date  
Derived from 9d3.1

All material on this page  
is unclassified.

Confidential

**Iran:**  
**The New Constitution (U)**

**Summary**

The new Iranian Constitution, which defines the political, economic, and social order of the Islamic republic, grants broad powers to the Islamic clergy. Leadership of the republic is entrusted to a religious leader—Ayatollah Khomeini is specifically mentioned—or in the absence of a single leader “enjoying the confidence of the majority of the people,” to a council of religious leaders. The procedures for selecting the leader or council of leaders are not explicitly listed. (U)

The powers of the leader or council of leaders overshadow those of the other institutions of government. The leader or council is empowered to appoint a “Council of Guardians,” which must review all legislation for fidelity to the principles of Islam; appoint the highest judicial authorities, who must themselves be religious jurists; command the armed forces; and approve the competence of candidates for the presidency of the republic. (U)

The Constitution provides for an executive composed of both a president and a prime minister. The President is elected to a four-year term by an absolute majority of the voters and supervises the affairs of the executive branch, “with the exception of the tasks delegated directly by this law to the leadership.” The Prime Minister is nominated by the President and approved by vote of the National Assembly. He supervises the Council of Ministers, coordinates government decisions, and selects government policies to be placed before the National Assembly. (U)

The National Assembly consists of 270 members elected to a four-year term. The members are elected by direct and secret ballot, though conditions affecting the eligibility of both voters and candidates will be determined by a separate law. All legislation from the Assembly must be approved by the Council of Guardians. This Council is composed of six “just

*This memorandum was prepared by [redacted] of the Iran Task Force, Office of Political Analysis. It has been coordinated with the National Intelligence Officer for Near East and South Asia. Questions and comments may be addressed to Chief, Iran Task Force, on [redacted]. Information available through 3 December was used in the preparation of this memorandum. (U)*

25X1

25X1

Confidential

**Confidential**

and religious persons" named by the leader, and six lawyers. A majority of the six religious members alone is required for passage of most legislation. The six lawyers vote only on limited questions of constitutionality of legislation, while the religious members consider all bills for fidelity to the principles of Islam. (U)

The Constitution provides that Shia Islam will be the official religion of Iran. Other Islamic denominations "enjoy complete respect." And "the people of Iran, regardless of ethnic and tribal origin, enjoy equal rights." But the Constitution does not formally grant the ethnic minorities autonomous status within the Islamic republic or guarantee religious freedom. (C)

Provisions relating to human rights are ambiguous in several respects. Freedom of the press, for example, is guaranteed provided that the views expressed are not "contrary to Islamic precepts or public rights." Similarly, the right to form political parties is guaranteed, "provided that they do not harm the principles of freedom, sovereignty, national unity, Islamic standards, and the foundation of the Islamic Republic." (C)

The military is charged by the Constitution with defending Iran's borders and maintaining internal security. The Revolutionary Guard Corps is charged with acting as the "guardian of the revolution." (U)

**Confidential**

Confidential

**Iran:**  
**The New Constitution (U)**

***General Principles***

The new Constitution of the Islamic Republic of Iran consists of 12 chapters that contain 175 articles. (U)

A preamble sets out the fundamental principles of the Islamic republic. Government is defined as arising not "from the notion of classes and mediation among persons or groups" but from a "crystallization of political idealism based on religious community and concord which provide its organization." This basic definition is amplified by more specific definitions that set out a political order based on the ideals of Islam and administered by institutions responsive to the leadership of the Islamic clergy. (U)

The principles outlined in the preamble to the Constitution define the Islamic basis of the new republic, an order sharply distinct from the secular regime of the Shah. The purpose of sovereignty, according to the new Constitution, is "to make people grow toward the divine order." Clerical leadership, which is "equipped to ensure that the various organizations do not deviate from their true Islamic duties," must be recognized by the people. The bureaucratic system of the Shah's "idolatrous rule" is to be abolished to make way for a new system more responsive to the new leadership. Legislation will be based on the Koran. The Army and the Revolutionary Guards are entrusted with defending Iran's borders and with "fighting to expand the rule of God's law in the world," possibly a reference to the maintenance of internal security. The social order envisaged by the Constitution is Islamic as well. The role of women, for example, is defined as "the unifying factor of the family unit." (C)

The preamble to the Constitution concludes with a collection of Koranic verses, *hadith* (traditions of the Prophet), and other texts that were used in drawing up the basic principles. The texts stress the themes of justice and equality which are prevalent in Islamic thought. The texts also stress the "special qualities of leadership"—that is, the leadership of the country is in the hands of "religious scholars, whose office it is to say what is permissible and what is forbidden." (U)

***The Leader***

The new Constitution provides that in the absence of the 12th Imam, the messiah of Shia Islam, he is to be represented in the Islamic Republic of Iran by a religious leader or council of leaders. The means for selecting such a leader or council are not explicitly covered by provisions of the Constitution,

Confidential

**Confidential**

although Ayatollah Khomeini is mentioned as already holding the position. On selection of a successor to Khomeini, the Constitution notes only that "whenever a candidate who has outstanding characteristics for leadership is found, he will be introduced to the people as leader. Otherwise, three or five candidates who fit the conditions for leadership will be appointed members of the leadership council and introduced to the people." The qualifications for the position of leader include only that he be "an honest, virtuous, well-informed, courageous, efficient administrator and religious jurist enjoying the confidence of the majority of the people." (U)

The powers of the leader are extensive. The leader appoints the religious jurists on the Council of Guardians, which approves all legislation passed by the National Assembly. The leader also appoints the highest judicial authorities, who must themselves be religious jurists. In his capacity as commander of the armed forces the leader may appoint or dismiss the commanders of the three military services, the Chief of the General Staff, and the Commander of the Revolutionary Guards. The leader is empowered to organize a High Council for National Defense, composed of the President, Prime Minister, Minister of Defense, Chief of the General Staff, Commander of the Revolutionary Guards, and two advisers whom he may specify. At the suggestion of this Council, the leader may order a mobilization of the armed forces and declare war. The leader also approves the competence of candidates for the presidency of the Republic and may dismiss the President after a finding by the Supreme Court that the President has violated the law. (U)

### ***The Executive***

The Constitution provides for an executive headed by the President of the Islamic republic who will be the "holder of the highest official power next to the office of leader," and for a Prime Minister and Council of Ministers. The duties of the executive branch, "with the exception of the tasks delegated directly by this law to the leadership," are to be performed by and through the President, the Prime Minister, and the Council of Ministers. (U)

Candidates for the presidency must be approved by the leader, must be Iranian citizens of Iranian origin, and must be believers in Islam. The President is elected for a four-year term by direct vote of the people and must have an absolute majority. A President can be reelected for only one additional term. The Council of Ministers may meet with the President at his discretion, in which case he supercedes the Prime Minister as head of the Council. The President, with the assent of the National Assembly, must approve all treaties, agreements, and contracts signed between the Islamic republic and any foreign government. (U)

**Confidential**

**Confidential**

The Prime Minister is nominated by the President and must be approved by a vote of confidence in the National Assembly. The Prime Minister may then suggest a Council of Ministers, which must be approved by the President and the National Assembly. The Prime Minister supervises the ministries, coordinates government decisions, and selects government policies. He and his Council remain in office for as long as they have the confidence of the National Assembly. (U)

### ***The Legislature***

The legislative body of the Islamic republic will be a National Consultative Assembly composed of 270 members elected to four-year terms by direct ballot. The Constitution provides that regulations on the eligibility of voters and candidates, as well as election procedures, must be determined by a separate law. Additional "legislative" power is vested in the public by a provision that allows for the Assembly to call for a national referendum on any issue, provided that two-thirds of the Assembly approves. (U)

The membership of the National Assembly is to be increased every 10 years in proportion to population growth. Certain seats within the Assembly are reserved. Zoroastrians and Jews are each to have one representative. Assyrian and Chaldean Christians together are to have one representative, while Armenian Christians of the south and of the north are each to elect one representative. (U)

The President and the Prime Minister are authorized by the Constitution to attend meetings of the Assembly together or individually. (U)

The National Assembly is authorized by the Constitution to enact laws, but the laws must not contradict either Islam or the Constitution. A Council of Guardians is to be created to pass on all legislation to determine if the new laws meet these criteria. Council members, who are named to six-year terms with half the membership changing every three years, include six "just and religious persons" appointed by the leader, and six "lawyers in different branches of the law" approved by vote of the National Assembly. A majority of the six religious members of the Council must determine whether a law contradicts Islamic decrees; a majority of all the members of the Council decides on questions of constitutionality. (U)

The Council of Guardians is responsible for supervising the presidential election, elections to the Assembly, and any national referendum. (U)

**Confidential**

**Confidential**

***The Judiciary***

The Constitution provides for the establishment of a judicial system "based on Islamic rules and standards." The highest judicial body is to be a "High Council of the Judiciary," consisting of the head of the Supreme Court, the Attorney General, and three "religious and just judges chosen by the judges of the country." The head of the Supreme Court and the Attorney General must be religious jurists (*mujtahids*) whose piety and knowledge of Islamic law authorizes them to make interpretations of the law which in turn have the force of law. (U)

The High Council of the Judiciary is charged with establishing necessary organizations within the Ministry of Justice, determining a law on the procedures for selecting the members of the Supreme Court, preparing other bills having to do with the judiciary, and appointing and dismissing judges. The term of office for the Council is five years, but members can be reelected. Procedures for the election of members are to be established by a separate law. (U)

***The Military***

The Constitution provides that the military forces of the Islamic republic will be charged both with defending Iran's borders and maintaining internal order. The Constitution also formally recognizes the Revolutionary Guards, established after the revolution. The Guards are to "remain active as the guardians of the revolution," their specific duties and authority to be established by a separate law. (U)

Under the command of the leader of the Islamic republic, the highest military authority provided for by the Constitution will be a "High Council for National Defense." Membership of the Council includes the President, the Prime Minister, the Minister of Defense, the Chief of the General Staff, the Chief of the Revolutionary Guards, and two advisers specified by the leader. (U)

The Constitution provides for military tribunals to be established for the investigation of crimes related to military duties by members of the military, gendarmerie, police force, or the Revolutionary Guards. Other crimes committed by military or security personnel will be handled by the regular courts of the Ministry of Justice. In any case, the Provost Marshal and the military courts are considered a part of the unified judiciary system and come under its principles. (U)

***Human Rights***

Provisions of the Constitution relating to human rights are ambiguous in several important respects. The Constitution guarantees a free press, for example, but with the stipulation that the views expressed do not contradict Islamic precepts or public rights. Specific regulations regarding the press are to be subject to further legislation. The right to form "parties, groups,

**Confidential**



**Confidential**

and political and professional organizations as well as Islamic or recognized minority religious associations" is guaranteed as well, provided "they do not harm the principles of freedom, sovereignty, national unity, Islamic standards, and the foundation of the Islamic Republic." (C)

Similar ambiguity exists in a provision relating to the rights of non-Moslems in Iran. The Constitution provides that non-Moslems must be treated with "good moral conduct and Islamic justice" and that their rights must be respected. A further provision, however, notes that "this principle will be applicable to those who do not get involved in anti-Islamic activities and in conspiracies hatched against the Islamic Republic of Iran." (C)

The Constitution provides for basic legal rights, including the stipulation that anyone accused of a crime is innocent until proven guilty, that torture is forbidden, that both parties in a court have the right to counsel, and that inspecting the mails, wiretapping, and the like are forbidden unless ordered by law. Investigations of political or "press crimes" are to be held openly before a jury in courts of the Ministry of Justice. (U)

### ***The Economy***

Three sectors of the economy are defined by the Constitution. The government sector is to include all major industries, foreign trade, major mines, banking, insurance companies, power production, dams and major water-carrying networks, radio and television, the post, telegraph, and telephone system, and air, land, and sea transport. A cooperative sector will include all companies and organizations that have been created in cities and villages "in accordance with Islamic regulations"—possibly a reference to the activities of the provisional government's reconstruction crusade. The private sector encompasses "those portions of agriculture, animal husbandry, industry, trade, and services which supplement the activities of the governmental and cooperative sectors." (U)

The Constitution establishes certain principles that define the nature of the economic order to be created in Iran under the Islamic republic. Among these is a principle "forbidding extravagance and dissipation of all forms in all matters pertaining to the economy, whether in spending, investment, production, distribution, or services." Another basic principle calls for an end to foreign economic domination of Iran. (U)

### ***Minorities***

The Constitution establishes "twelver" (*Ithna'ashari*) Shia Islam as the official religion of Iran. Other sects of Islam "enjoy complete respect." That is, the members of other sects are "free to perform their religious rites based on their own religious jurisprudence. They are also officially recognized as such in the courts in connection with lawsuits dealing with religious teachings and personal affairs." (U)

**Confidential**

**Confidential**

The Constitution does not provide for the autonomy of any of Iran's ethnic minority groups. Rather, it calls for the establishment of local "councils" composed of "representatives of workers, villagers, and other employees and managers to operate in administrative and service units." The organization and duties of these local councils are to be specified by a separate law. In any area where the majority of the population consists of followers of a sect other than twelver Shiism, the regulations of the local councils—"within the power possessed by the councils"—may be based on the regulations of that sect. A "Supreme Council of the Provinces" composed of representatives of each province is to be established to coordinate the activities of the local councils. The authority and duties of the Supreme Council will be defined by a separate law. (U)

The official language and script of the Islamic Republic will be Persian. Official documents, correspondence, and statements, as well as textbooks, must be in Persian. In the minority areas, local and nationality languages may be used in the press and other mass media and may be taught along with Persian in the schools. Additionally, Arabic must be taught "in all classes in all fields of study" beginning with the completion of elementary school and continuing until the end of secondary school. (U)

**Confidential**

**Confidential**

**Confidential**